

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SCHREINER UNIVERSITY, §
§
Plaintiff, § CIVIL ACTION NO. 5:24-cv-20
§
v. §
§
COMPASS GROUP USA, INC. DBA §
CHARTWELLS, §
§
Defendant. §
§
§
§

DEFENDANT'S NOTICE OF REMOVAL

Defendant Compass Group USA, Inc. d/b/a Chartwells (“Chartwells” or “Defendant”) hereby removes this action from the 198th Civil District Court in Kerr County, Texas, to the United States District Court for the Western District of Texas pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and in support thereof, respectfully submits the following:

STATEMENT OF THE CASE

1. On March 7, 2023, Plaintiff Schreiner University (“Scheiner” or “Plaintiff”) filed in the 198th Judicial District Court in Kerr County, Texas, an Original Petition. (Ex. A-1.) Plaintiff filed a First Amended Original Petition on March 9, 2023. (Ex. A-2.) Plaintiff filed a Second Amended Original Petition on August 14, 2023 (“Petition”). The Petition asserts causes of action against Chartwells and five individual defendants: (1) Breach of Contract against Chartwells; (2) Negligence and Gross Negligence against Chartwells; (3) Negligence and Gross Negligence against Defendant Arciniega; (4) Negligence and Gross Negligence against Defendants Lessner, Mariani, Ortega, and Owens; (5) Breach of Implied Warranty against Chartwells; (7) Negligent

Misrepresentation against All Defendants; and (8) Tortious Interference with Business Relations against All Defendants. (Ex. A-3.) Defendants waived service of the Petition on August 25, 2023. (Ex. A-4 – A-9.)

2. On December 6, 2023, the Honorable M. Patrick Maguire of the 198th Judicial District Court signed an order dismissing with prejudice all claims against the five individual defendants, leaving Chartwells as the sole remaining defendant. (Ex. A-12.) The order was filed in the 198th Judicial District Court on December 7, 2023. (*Id.*)

3. According to Plaintiff, Schreiner is a private university and a Texas not-for-profit corporation with its principal place of business located in Kerr County, Texas. (Pet., Ex. A-3, at ¶ 2.)

4. Each of the five individuals who was named as a defendant and subsequently dismissed with prejudice from the case is a citizen of Texas. (Pet., Ex. A-3, at ¶¶ 4–8.)

5. As Schreiner concedes, Chartwells is a corporation organized under the laws of Delaware. (Pet., Ex. A-3, at ¶ 3.) Chartwells' principal place of business is located at 2400 Yorkmont Road, Charlotte, North Carolina 28217.

COMPLETE DIVERSITY EXISTS

6. According to Plaintiff, Schreiner is a Texas not-for-profit corporation with its principal place of business in the State of Texas. (Pet., Ex. A-3, at ¶ 2.)

7. Chartwells is, and at all relevant times was, a corporation duly organized and existing under the laws of the State of Delaware (Pet., Ex. A-3, at ¶ 2), with its principal place of business located at 2400 Yorkmont Road, Charlotte, North Carolina 28217. Chartwells is not, and was not at any relevant time, a citizen of the State of Texas.

8. This Court has original jurisdiction of this civil action under 28 U.S.C. § 1332, and Defendant may remove the action under the provisions of 28 U.S.C. § 1441, because this action is a civil action between citizens of different states and the matter in controversy herein exceeds the sum or value of \$75,000, exclusive of interest and costs.

THE MINIMUM AMOUNT IN CONTROVERSY IS SATISFIED

9. Plaintiff prays for actual damages in an amount over \$2,200,000.00, in addition to consequential damages and exemplary damages. (Pet., Ex. A-3, at ¶¶ 59–60.)

10. Accordingly, in aggregate, Plaintiff alleges an amount in controversy well in excess of the jurisdiction minimum \$75,000, exclusive of interest and costs.

ADDITIONAL PROCEDURAL REQUIREMENTS

11. Removal is timely under 28 U.S.C. § 1446(b)(3). This Notice of Removal (“Notice”) is being filed within thirty (30) days of the state court order from which it could first be ascertained that the case is one which is or has become removable. (Ex. A-10.)

12. This action, filed in the 198th Judicial District Court in Kerr County, Texas, is being removed to the District and Division embracing the place where the action is pending. 28 U.S.C. § 1441(a).

13. Pursuant to 28 U.S.C. § 1446(a), copies of all the process, pleadings, and orders on file with the state court or served on Defendant in the state court are attached collectively as Exhibits A-1 to A-10. A copy of the docket sheet in the state court action is attached as Exhibit B.

14. A notice of filing of removal, with a copy of this Notice attached thereto, is being filed with the clerk of the 198th Judicial District Court in Kerr County, Texas, Cause No. 23144B, pursuant to 28 U.S.C. § 1446(d).

15. A notice of filing of removal, with a copy of this Notice attached thereto, is being served on Plaintiff's attorney pursuant to 28 U.S.C. § 1446(d).

16. Pursuant to Local Rule CV-3(a), a completed civil cover sheet is being filed along with this Notice. (Ex. C.)

17. No previous application has been made for the relief requested herein.

18. This Notice has been signed pursuant to Federal Rule of Civil Procedure 11.

CONCLUSION

Defendant respectfully prays that this action be removed to this Court for determination; that all further proceedings in the state court be stayed; and that Defendant obtains all additional relief to which it is entitled.

Dated: January 5, 2024

Respectfully submitted,

/s/ Bradley A. Monk
Bradley A. Monk
Texas Bar No. 24077502
Grant Schmidt
Pro Hac Vice Forthcoming
HILGERS GRABEN PLLC
7859 Walnut Hill Lane, Suite 335
Dallas, Texas 75230
Telephone: 469-289-2751
Facsimile: 402-413-1880
bmonk@hilgersgraben.com
gschmidt@hilgersgraben.com

AND

Michael Burns
Pro Hac Vice Forthcoming
HILGERS GRABEN PLLC
601 Pennsylvania Ave. NW.,
South Building, Suite 900
Washington, DC 20004
Telephone:
Dallas, Texas 75230
Telephone: 202-985-1664
Facsimile: 402-413-1880
mburns@hilgersgraben.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

On January 5, 2024, I hereby certify that I have served all counsel and/or pro se parties or record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Bradley A. Monk
Bradley A. Monk